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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 GUILLERMO NUNO, ) Case No.: 1:21-cv-00769-SAB (PC)  
12 Plaintiff, )  
13 v. ) ORDER DENYING PLAINTIFF’S MOTION  
14 ESLICK, et al., ) FOR APPOINTMENT OF COUNSEL, WITHOUT  
15 Defendants. ) PREJUDICE  
16 ) (ECF No. 3)  
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18 Plaintiff Guillermo Nuno is proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. §  
19 1983.

20 Plaintiff filed the instant complaint on May 13, 2021, along with a separate motion requesting  
21 appointment of counsel. (ECF No. 3.)

22 The Court notes that Plaintiff does not have a constitutional right to appointed counsel in this  
23 action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the Court cannot require any  
24 attorney to represent Plaintiff pursuant to 28 U.S.C. § 1915(e)(1), Mallard v. United States District  
25 Court for the Southern District of Iowa, 490 U.S. 296, 298 (1989). Nevertheless, in certain exceptional  
26 circumstances, the Court may request the voluntary assistance of counsel pursuant to § 1915(e)(1).  
27 Rand, 113 F.3d at 1525. Without a reasonable method of securing and compensating counsel, the  
28 Court will seek volunteer counsel only in the most serious and exceptional cases. In determining

1 whether “exceptional circumstances exist, the district court must evaluate both the likelihood of  
2 success on the merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the  
3 complexity of the legal issues involved.” Id. (internal quotation marks and citations omitted). “Neither  
4 of these considerations is dispositive and instead must be viewed together.” Palmer v. Valdez, 560  
5 F.3d 965, 970 (9th Cir. 2009). The burden of demonstrating exceptional circumstances is on Plaintiff.  
6 Id.

7 The Court has considered Plaintiff’s request, but does not find the required exceptional  
8 circumstances. Initially, circumstances common to most prisoners, such as lack of legal education,  
9 limited law library access, and lack of funds to hire counsel, do not alone establish the exceptional  
10 circumstances that would warrant appointment of counsel. Further, the Court has yet to screen  
11 Plaintiff’s complaint and cannot make a determination that Plaintiff is likely to succeed on the merits.  
12 Moreover, based on a cursory of the complaint, the legal issues involved in this case do not appear to  
13 be particularly complex and the Court finds that Plaintiff can adequately articulate his claims.  
14 Accordingly, Plaintiff’s request for the appointment of counsel is denied, without prejudice.

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16 IT IS SO ORDERED.

17 Dated: May 14, 2021

  
UNITED STATES MAGISTRATE JUDGE